

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

LATNEY A. RUSSELL,

Plaintiff,

VS.

FLIXBUS, INC.,

Defendant.

CIVIL ACTION NO.
1:23-cv-00796-MHC

HON. JUDGE MARK H. COHEN

**DEFENDANT FLIXBUS, INC.'S RESPONSE TO PLAINTIFF'S MOTION
TO OBJECT PREJUDICED AND BIASED JOINT PRELIMINARY
REPORT AND DISCOVERY PLAN; AND MOTION TO SEEK
CONSEQUENTIAL REMEDIES**

COMES NOW Defendant, FLIXBUS, INC., by and through undersigned counsel, hereby submits its Response to Plaintiff's Motion to Plaintiff's Motion to Object Prejudiced and Biased Joint Preliminary Report and Discovery Plan; And Motion to Seek Consequential Remedies in the above-styled case before this Honorable Court.

1. Plaintiff filed the subject Verified Complaint on October 28, 2022. In the Complaint Plaintiff alleged that a third-party company failed to prevent him from being assaulted and as such FlixBus was negligent.

2. Defendant filed its Verified Answer on February 22, 2023.

3. On Friday March 17, 2023, Defendant forwarded to *Pro Se* Plaintiff a Proposed Consolidated Joint Preliminary Report and Discovery Plan.¹

4. After not hearing from Plaintiff regarding the Consolidated Report, Defendant again followed up on the report.²

5. Plaintiff responded that he would have the report the next day – the date that it was due. Defense counsel informed Plaintiff that our office would be filing the report at 1:00 p.m. the next day.³

6. On March 24, 2023, Plaintiff sent over his proposed changes to the Report. The only changes made to the Proposed Consolidated Report was to the “Description of the Case” section wherein Plaintiff attempted to assert the same inflammatory statements made in the Complaint.⁴

7. Defendant objected to the language in the description of the case section and attempted to explain to Pro Se Plaintiff that it was a Consolidated Report and should be objective. However, in an attempt to compromise made

¹ See Exhibit A – Email thread to Plaintiff.

² See Exhibit “A” – Email thread to Plaintiff.

³ See Exhibit “A” – Email thread to Plaintiff

⁴ See Exhibit “B” - Consolidated Report with Plaintiff’s proposed changes

additional edits to the particular section to include the majority of Plaintiff's suggested changes.⁵

8. Subsequently, Defendant filed the Consolidated Report with this Honorable Court. After the plan was filed, Plaintiff.

9. Several hours after Defendant filed the report, Plaintiff sent an email stating he did not want to submit a joint report.⁶

10. As a *pro se* plaintiff, his pleadings are subject to a different standard of review than those drafted by lawyers. The Supreme Court has held that a document filed *pro se* is "to be liberally construed."⁷ The court, however, "need not accept as true legal conclusions or unwarranted factual inferences" contained in complaints filed by *pro se* litigants.⁸

11. However, despite being held to a direct standard of review than a lawyer,

⁵ Joint Preliminary Report and Discovery Plan.

⁶ See Exhibit "A" – Email Thread to Plaintiff

⁷ *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (citing *Estelle v. Gamble*, 49 U.S. 97, 106 (1976)).

⁸ *Montgomery v. Huntington Bank*, 346 F.3d 693, 698 (6th Cir. 2006) (quotation and citation omitted).

pro se plaintiffs are still required to comply with the Federal Rules of Civil Procedure threshold requirements.⁹

12. Likewise, despite being a *pro se* litigant, Plaintiff is required to comply with the Local Rules of this Honorable Court.

13. Local Rule 16.2 states “*The assigned judge may at any time direct counsel to appear and confer regarding the status of any pending case. Joint status reports shall be submitted at the time and in the form required by the judge.*”¹⁰ Emphasis added.

14. The fact that Mr. Latney does not agree with the court’s rules and that he is a *Pro Se* litigant does not give him a waiver from complying with said rules.

15. As such, Defendant fully required with Local Rule 16.2 and has given Plaintiff all the opportunity to fully comply. Therefore, Plaintiff’s Motion to Object Prejudiced and Biased Joint Preliminary Report and Discovery Plan; And Motion to Seek Consequential Remedies should be stricken and all request for relief should not be considered by this Honorable Court.

⁹ See *Trawinski v. United Techs.*, 313 F.3d 1295, 1299 (11th Cir. 2002).

¹⁰ District Court of Northern District of Georgia Local Rule. 16.2

CERTIFICATION

Counsel certifies that this document has been prepared with one of the font and point selections approved by the Court in L.R. 5.1(C) N.D. Ga, specifically, 14-point.

Respectfully submitted this 24th day of April, 2023.

Respectfully submitted,

/s/ Tujuana S. McGee

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served upon all counsel of record by electronic mail and/or by depositing same in the United States Mail, properly addressed and postage prepaid, this 24th day of April, 2023, as follows:

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Pro Se Plaintiff

Respectfully submitted,

/s/ Tujuana S. McGee

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